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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,964	07/03/2003	Rebecca A. Heilman	22847.00	3585

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09/30/2004

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EXAMINER

HARMON, CHRISTOPHER R

ART UNIT PAPER NUMBER

3721

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/611,964

Applicant(s)

HEILMAN ET AL.

Examiner

Christopher R Harmon

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 July 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 14-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/3/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of claims 1-13 in the reply filed on 7/09/04 is acknowledged. The traversal is on the ground(s) that it is unclear how the method is performed without conveyor belts. This is not found persuasive because other conveying devices can easily be employed such as rollers, vacuum devices, etc.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5, 7-9, and 13 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Dunbar et al. (US 5,469,688).

Dunbar discloses an apparatus for wrapping a napkin around one or more utensils 12 comprising output opening; napkin lifting station 68; napkin wrapping station

18; napkin transfer station 62 with vacuum plate 78 which raises and lowers on guide rails to individually transfer a napkin; utensil transfer station 82 with a plurality of cartridges 84, lifters 88u, grippers 88l, shifter assembly 86, mounted by bracket 87; napkin folding station 29; output conveyor belt 100; see figures 1, 2, 6, and 8; column 5, lines 20-28. Because the wrapping belts 24, 28, and 124 are ribbed and opposing they are considered to be a plurality of belts.

Regarding claims 3, Dunbar discloses a second embodiment with a pair of counter rotating belts; see figure 10.

The examiner takes the position that structural limitations such as hollow housing, support frame with vertical and horizontal beams, etc. are inherent in the invention to Dunbar and in the least obvious to one of ordinary skill in the art to be provided where needed or desired.

5. Claims 6, 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunbar et al. (US 5,469,688).

Dunbar et al. does not specifically disclose a feed conveyor belt for receiving the utensils from utensil grippers as they are dropped directly onto ribbed wrapping conveyor 24. However, in the second embodiment Dunbar discloses dropping utensils to actuated gate 89 before transfer to plurality of wrapping belts. The examiner takes OFFICIAL NOTICE that it would have been obvious to one of ordinary skill in the art to substitute the actuated gate of Dunbar with a conveyor belt.

Regarding claim 10, the output conveyor of Dunbar is horizontally aligned however does not convey the wrapped utensils. The wrapped utensils are dropped

Art Unit: 3721

onto a chute and discharged by gravity. However the examiner takes OFFICIAL NOTICE that it would have been obvious to one of ordinary skill in the art to supply an additional output conveyor for conveying the wrapped product wherever desired.

Regarding claims 11 and 12, Dunbar does not directly disclose doors on the napkin and utensil input magazines, however the examiner takes OFFICIAL NOTICE that it would have been obvious to one of ordinary skill in the art to supply a door for a magazine.

### ***Conclusion***


6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R Harmon whose telephone number is 703-308-8643. The examiner can normally be reached on Monday-Thursday from 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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EUGENE KIM  
PRIMARY EXAMINER